

REMARKS

In connection with the Office Action dated June 21, 2005, the Examiner has:

- (1) withdrawn claims 9 and 14-25 from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention;
- (2) objected to claim 7 because compounds were missing closing parenthesis;
- (3) objected to claim 11 because “pharmaceutically” should be changed to “pharmaceutical”;
- (4) rejected claim 13 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- (5) rejected claims 1-5 and 10-13 under 35 U.S.C. §102(b) as being anticipated by Suga (U.S. Patent No. 5,530,030);
- (6) rejected claims 1-7 under 35 U.S.C. §102(b) as being anticipated by Letcher, R.M. (Org. Magn. Reson., Vol. 16, No. 3, 1981, pages 220-223);
- (7) rejected claims 1-2 and 8 under 35 U.S.C. §102(b) as being anticipated by Moylan et al. (MCLC S&T, Section B: Nonlinear Optics, Vol. 8, No. 1, 1994, pages 69-78);
- (8) rejected claims 1-5 and 10-13 under 35 U.S.C. §103(a) as being unpatentable over Masshiko et al. (JP 51-136826)

In the present response, claims 7, 11, and 13 have been amended. Claims 26 and 27 are newly added. Claims 9,14-25 are identified as withdrawn. Upon entry of the amendments, claims 1-8 and 10-13 are pending in the present application. Applicant requests reconsideration in view of the following remarks and foregoing amendment.

Election/Restrictions

With respect to item (1), claims 9 and 14-25 have been withdrawn by Examiner. The Applicant, however, reserves the right to pursue the subject matter in the withdrawn claims in a subsequent application.

### Claim Objections

With respect to items (2) and (3), claims 7 and 11 have been amended to correct the informalities in the claims. In claim 7, a missing parenthesis “)” was added after “(3,5-ditrifluoromethylphenyl” and a missing parenthesis “)” was added after “(3,5-dichlorophenyl”. In Claim 11, the term “pharmaceutically” was changed to “pharmaceutical”. Accordingly, the appropriate corrections were made and now the claims 7 and 11 are in condition for allowance.

### 35 U.S.C. § 112

With respect to item (4), claim 13 has been rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter. More particularly, claim 13 was rejected for containing a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation. In addition, claim 13 was further indefinite because although the claims appears to be directed to pharmaceutical compositions, it is written with a method step.

Claim 13 has been amended to remove the broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation. The phrase “, especially from 20 to 200 mg/day and in particular from 10 to 100 mg/day” has been deleted from claim 13. New dependent claims 26 and 27 have been added to encompass the narrower ranges or limitations such as “20 to 200mg/day” and even more narrower “10 to 100 mg/day”.

Also, claim 13 has been amended to remove any method step language. The phrase “the administration at” was deleted from claim 13 so that the claim now reads as directed to a pharmaceutical composition.

Accordingly, Applicant submits that claim 13, as amended, now clearly and distinctly recite the invention set forth therein.

### 35 U.S.C. § 102 (b)

With respect to item (5), the Examiner has asserted in the Office Action that Suga (U.S. Patent No. 5,530,030) discloses all elements set forth in independent claim 1.

Claim 1 has a chemical structure with a substitution pattern of the hydroxy group at the para position. As illustrated in Claim 1, there are two functional groups tied to a ring of benzene in the position 1 and 4.

In contrast, Suga fails to teach a substituted hydroxy group at the para position. Rather, if the Examiner may note, Suga teaches a substituted hydroxy group at the meta position. Moreover, there are two functional groups tied to a ring of benzene in position 1 and 3 in Table 1, compound 7, hydroxy group.

To that end, Applicant submits that claim 1 is not anticipated by Suga. In addition, since claims 2-5 and 10-13 depend from claim 1, it follows that these dependent claims are also not anticipated by Suga.

With respect to item (6), the Examiner has asserted in the Office Action that Letcher, R.M. (Org. Magn. Reson., Vol. 16, No. 3, 1981, pages 220-223) discloses all elements set forth in independent claim 1.

Claim 1 recites a stilbene derivative and the symmetrical derivatives of the compound. In contrast, Letcher R.M. fails to disclose each and every claim element. Rather, if the Examiner may note, Letcher R.M. does not include symmetrical derivatives in its description.

To that end, Applicant submits that claim 1 is not anticipated by Letcher R.M.. In addition, since claims 2-7 depend from claim 1, it follows that these dependent claims are also not anticipated by Letcher R.M.

With respect to item (7), the Examiner has asserted in the Office Action that Moylan et al. (MCLC S&T, Section B: Nonlinear Optics, Vol. 8, No. 1, 1994, pages 69-78) discloses all elements set forth in claim 1.

With respect to a claim reciting a property or intended use distinguishable from the prior art, an anticipation rejection may not be appropriate. See *In Re Perason*, 494 F.2d 1399. Claim 1 recites a chemical compound which can be used for the prevention and treatment of poisoning and pathologies caused by toxic aryl hydrocarbons and other ligands of the Ahr. In contrast, Moylan et al. does not recite a similar intended use for its chemical structure.

To that end, Applicant submits that claim 1 is not anticipated by Moylan. In addition, since claims 2 and 8 depend from claim 1, it follows that these dependent claims are also not anticipated by Moylan.

35 U.S.C. § 103(a)

With respect to item (8), the claims 1-5 and 10-11 have been rejected by the Examiner as being unpatentable over Masahiko et al. (JP 51-136826).

Claim 1 has a chemical structure with a substitution pattern of the methoxy group at the para position. As illustrated in Claim 1, there are two functional groups tied to a ring of benzene in the position 1 and 4.

In contrast, Masahiko fails to teach a substituted methoxy group at the para position. Rather, if the Examiner may note, Suga teaches a substituted methoxy group at the meta position. Moreover, there are two functional groups tied to a ring of benzene in position 1 and 3 at compound 7 on page 186.

To that end, Applicant submits that claim 1 is not anticipated by Masahiko. In addition, since claims 2-5 and 10-13 depend from claim 1, it follows that these dependent claims are also not anticipated by Masahiko.

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that the pending claims clearly and distinctly set forth the subject matter of the present invention. Also, the pending claims are not anticipated by Suga, Letcher R.M., or Moylan et. al. In addition, the pending claims are not rendered obvious by Mashiko et al.

Accordingly, Applicant submits that the claims are now in condition for allowance. Withdrawal of the pending rejections, and early and favorable reconsideration are respectfully solicited. In the event that a telephone conversation would further prosecute and/or expedite allowance, the Examiner is invited to contact the undersigned at (617) 310-6000.

Applicants request a three month extension of time under 37 C.F.R. § 1.136 (a) as hereby enclosed. Applicants do not believe that any additional fee is required in connection with this Response. However, should any extension or fee be required, Applicant hereby petitions for same and requests that such and any other fee required for timely consideration of this application be charged to Deposit Account No. 50-2678.

Respectfully Submitted,



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